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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,848	08/21/2003	Gert-Ove WAHLSTROM	7589.127.PCUS00	1847

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EXAMINER
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SAN MARTIN, EDGARDO

ART UNIT	PAPER NUMBER
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2837

MAIL DATE	DELIVERY MODE
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08/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,848	<b>Applicant(s)</b> WAHLSTROM ET AL.	
	<b>Examiner</b> Edgardo San Martin	<b>Art Unit</b> 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 17, 2007 has been entered.

2. Regarding claim 23, the Examiner has given little patentable weight to the preamble because it has been held that a preamble is denied the effect of a limitation where the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

### ***Double Patenting***

3. Applicant is advised that should claim 1 be found allowable, claims 22 and 23 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Objections***

4. Claim 20 is objected to because of the following informalities:
- The claim depends upon claim 9 which was cancelled by the filed amendment.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 3, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Heath (US 2,013,956).

Heath teaches an apparatus for damping resonance comprising a conduit (Fig.1, Item 21) for transporting exhaust gases from an internal combustion engine, which conduit includes a wall separating an interior from an atmosphere surrounding the conduit (Fig.1), the wall having formed therein at least one perforation (Fig.1, Item 25) located at a distance from the an exhaust gas outlet end of the conduit, the at least one perforation occupying a point in the conduit with a comparatively lower static pressure (Fig.1, Item 20) than downstream therefrom, the at least one perforation forming an acoustic connection as an aperture through the wall between the interior and the atmosphere surrounding the conduit (Fig.1); wherein the lower static pressure (Fig.1,

Item 20) at the perforation is brought about by means of a reduction in the cross section of the conduit; wherein the reduction in the cross section of the conduit is designed as a venturi (Fig.1, Col.2, Line 11 – Col.3, Line 20); and wherein the conduit is an end pipe that transports exhaust gases away from a silencer, out into the surrounding environment (Figs.8 - 11).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 – 8 and 12 – 17, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath (US 2,013,956) in view of Okawa et al. (JP 02173313).

With respect to claims 4, 8 and 14, Heath teaches the limitations discussed in a previous rejection, but fail to disclose wherein the at least one perforation is covered with a sound permeable fabric or with a sound absorbing material.

Nevertheless, Okawa et al. teach a venturi conduit (Fig.3, Item 2) comprising at least one perforation at a point of comparatively lower static pressure (Fig.3, Item 5), wherein the at least one perforation is being covered with a sound absorbing material (Fig.3, Item 3)(Abstract).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Okawa et al. configuration with the Heath design

because the sound absorbing material would further help attenuate sound in a high frequency range.

Regarding claim 8, Heath teaches the at least one perforation being covered with a perforated cover (Fig.1, Item 23 and 26). The Examiner considers that any person with ordinary skill in the art would recognize that the perforated cover could work the same as a sound permeable fabric. One benefit of using a fabric over a cover is that the fabric could provide a lighter design when weight is a constraint, in addition to reduce cost of manufacturing.

With respect to claims 5, 12, 13, 15, 19 and 21, Heath teaches the limitations described in the claims (Figs.1 and 8 – 11).

With respect to claims 6, 7, 16 and 17, the Examiner takes official notice that it is well known in the art of mechanics of fluids that a change in direction in a conduit will cause a lower static pressure profile.

### ***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers that the patent to Heath and in obvious combination with Okawa et al. teach the limitations described in the claims, as discussed above.

***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571)272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edgardo San Martin/

Edgardo San Martín  
Primary Examiner  
Art Unit 2837  
Class 181  
August 6, 2008